

The Committee of Advertising Practice and the Broadcast Committee of Advertising Practice
Consultation on featuring children in lottery advertising
Response from Camelot UK Lotteries Limited
January 2020

Introduction

Camelot UK Lotteries Limited welcomes the opportunity to respond to this consultation. As the consultation document notes, these proposals are unlikely to directly affect National Lottery advertising. However, as the operator of The National Lottery we take an active interest in the regulation of lottery products including how they are marketed to ensure that they do not encourage underage or excessive play.

CAP and BCAP Proposals

Camelot is supportive of traditional society lotteries as they raise much-needed funds for important good causes such as children's hospices. As such, we agree with the proposals if they make it possible for small society lotteries to advertise how the funds that they raise help younger people and thereby encourage participation from the public.

Camelot does not consider that these new rules will affect how we advertise National Lottery products and is also mindful that they should equally not apply to umbrella-style society lotteries that are national competitors to The National Lottery.

We also agree that it is important to retain existing protections for children and ensure that lottery advertisements do not contain content that particularly appeal to them. For example, in the past the Advertising Standards Authority has upheld complaints against other lottery providers for using "cute", "cuddly" and "exaggerated cartoon-like" imagery.¹

Scratchcards and Instant Win Games

Camelot is not currently aware of any particular Scratchcards or Instant Win Games developed by lottery operators for good causes that solely benefit under-25s.

With regards to comments in the consultation document about possible risk to young people from Scratchcards, our understanding is that the Gambling Commission's Young People and Gambling Report 2018 did not indicate that "scratchcards can act as a 'gateway' to gambling".²

If you require any further information from Camelot or would like to learn more about Camelot's approach to healthy play and advertising please do not hesitate to get in contact.

23 January 2020

¹ <https://www.asa.org.uk/rulings/rieves-lotteries-ltd-a18-457504.html>

² CAP & BCAP Consultation, Featuring children in lottery advertising, November 2019, p10



About Cornwall Hospice Care

We are a Cornish charity that provides specialist care for people with terminal illnesses 24 hours a day, 7 days a week.

Our clinical teams support in and out patients and their families at Mount Edgcumbe Hospice in St Austell, St Julia's Hospice in Hayle and in Cornwall's hospitals, care homes and in the community.

We also run a 24 hour advice line for other healthcare professionals and share our knowledge through education programmes supporting the healthcare workers of the future.

Every year it costs over £5.3 million to provide the specialist care we offer to our in and out patients, their families and their carers.

Only 19.1% of this is funded through a contribution from Cornwall's NHS Commissioners who in the last financial year gave us £1 million.

The rest is raised by the people of Cornwall, people like you, who leave us legacies, support fundraising events, play our lottery and donate to, and buy in, our shops.

Statement

We strongly support the submission made by the HLA on behalf of all members of our Association. We would also like to endorse the statement made by the HLA that supporters of lottery products for Hospices are not, as a genuine rule, motivated by the opportunity to win a big prize.

In fact our first prize is £1,000. Lottery players, of which there are 9940 in our lottery, are attracted by the opportunity to support our service provision. Attempts to justify strict rules though evidence related to gambling harms caused by commercial gambling organisations or the massive jackpots offered by the National Lottery are not appropriate to hospice lotteries like ours.

Consultation question

Proposed rule

17.15 *[Marketing communications] for lotteries must not feature anyone who is, or seems to be, under 25 years old (under-25s) participating in gambling.*

17.16 *[Marketing communications] for lotteries which include any reference to scratchcards or online instant-win lottery products must not feature under-25s in a significant role.*

Other [marketing communications] for lotteries must not feature under-25s in a significant role unless either:

17.16.1 *the under-25s are featured solely to depict the good causes supported by the lottery and there is no explicit encouragement to purchase a lottery product; or*

17.16.2 the lottery primarily benefits under-25s (including in a family setting) and the under-25s featured are representative of the primary beneficiaries of the lottery.

Question 1:

Do you agree with CAP and BCAP's proposed new rules to replace CAP rules 17.15 and 17.16 and BCAP rules 18.6 and 18.7?

We are content with the revision to rule 17.15.

There are a number of issues with the proposed changes to rule 17.16.

1. There are references to the phrase "in a significant role", which is not defined anywhere but appears to be a set of guidelines adapted for the Codes of Advertising Practice applied to alcohol advertising. Leaving this phrase undefined means that it open to interpretation in different ways by advertisers and regulators. The HLA submission details how different interpretations can be placed on it even by different individuals within the regulator. The use of this term rebuts the statement that "CAP strives to ensure that its rule-making is transparent, accountable, proportionate, consistent and targeted". The use of undefined and ambiguous phrases such as "significant role" does not comply with this aim, especially as what clarification there is does not specifically relate to lotteries.
2. 17.16.1 is poorly worded. The proposed Codes of Advertising Practice appear here to be preventing advertising the cause and support for the cause. Hospices like ours frequently use photos of patients in various supported settings to ask supporters to provide income for the charity. What is getting forgotten is the fact that lotteries are a fundraising vehicle – as well as a gambling product, and in the case of Hospice lotteries more the former than the latter. And at some point supporters will need to be asked to support.
3. 17.16.2 appears to again put interpretation ahead of definition. Primacy of purpose is not the only reason that imagery of young people is important for our Hospice. One of the biggest issues for a dying patient is the vital support for the family and often children that they leave behind. These are critical issues that need to be presented to potential supporters and lottery players
4. The proposed new rules seek to distinguish scratch cards from other lotteries. In seeking to make this distinction, this report refers only to evidence relating to National Lottery scratch cards where the jackpots on offer are life changing and very tempting to vulnerable persons – currently up to £2million. There is no reference provided to charity lottery scratch cards where the prizes on offer are typically around £1,000. Certainly our Hospice sell scratch cards at £1 each through our charity shops. The purchasers are in the same demographic as our other lottery players.

Cornwall Hospice Care would like to thank CAP for engaging with our association and looking to provide a better informed and more user friendly code of practice for society lotteries.

**The HLA written response to the ASA Consultation
on Codes of Advertising Practice Section 17**

January 23 2020

The Board of the HLA are grateful to be able to present its thoughts on the issues contained in this code consultation. We would also like to thank the policy and regulation staff at CAP/ASA for looking into our earlier concerns and looking to address them through this consultation.

About the HLA

The Hospice Lotteries Association was established in 2000 to help those hospices which operate lotteries to share information and benefit from each other's knowledge and experiences.

The Hospice Lotteries Association is a non-profit group with members from over 130 of the UK's adult and children's hospices.

Our aim is to:

- Promote its members hospice lotteries.
- Encourage best practice and compliance with relevant legislation.
- Provide mutual support through the sharing of knowledge and experience.
- Provide representation of its members to any governing or legislative bodies.
- Keep members up-to-date with industry legislation, codes of practice and standards.
- Receive representations from industry suppliers, to ensure that members are aware of the latest technologies and innovations.
- Present a united body of opinion on matters relating to hospice lotteries when requested to do so or as necessary.
- Provide increased credibility to its members.

Background to HLA engagement in this consultation

In September 2018, a Children's Hospice member of the HLA attended a Conference held by the HLA designed to share and develop knowledge and experience within the membership, and announced that they had referred their joiner leaflet to CAP for review through their copy advice service for a free assessment.

The leaflet contained two pictures, neither of which showed any gambling activity, but were placed to show children 1/ receiving care as a result of the money provided by their Hospice Lottery, and 2/ a

picture of the family together enjoying time with their life-limited child. The photos were included to remind potential players of the positive benefits of supporting this charity and its work.

There was no attempt to glamourise or encourage underage play, or to suggest that it was something that a child or young person ought to be engaging in. Just a couple of pictures of children and key people that are supported by a charity, to provide help for them.

The photos referred are shown here.



The HLA member was shocked to learn that CAP considered that the pictures may breach code 17.15 as the children may be seen to play a 'significant role'.

As a result of this advice and in accordance with the social responsibility 5.1.7 of the Licence Conditions and Codes of Practice (LCCP) as issued by the Gambling Commission which requires operators to comply with CAP codes, this member reprinted all of their marketing collateral and on attending the HLA Conference, advised of this situation to the rest of the membership.

The Board of the HLA then resolved to investigate, and to see why rule 17.15 'Marketing communications for a lottery product may include children or young persons. No-one who is, or seems to be, under 25 years old may be featured gambling or playing a significant role.' was apparently applied incorrectly.

During this investigation, it was quickly established that the key issue was around the term 'in a significant role' which had been co-opted from the alcohol codes and applied to gambling codes and by extension to lottery codes without being reviewed for its appropriate application. In requiring a definition, the HLA was advised that there was no definition – though there are guidelines <https://www.asa.org.uk/advice-online/alcohol-featuring-under-25s.html> and that the scope of these guidelines was kept deliberately broad so as to allow the ASA maximum flexibility in adjudicating on breaches.

The problem here is that the alcohol version of a significant role appears to centre on alcoholic products or consumption of alcohol appearing in the advert, and sale of alcoholic products being central to the advertisement.

An objective review of these guidelines would show that they are not applicable when considering charity lottery imagery.

It should be noted that the service provision of the charity is the central point of lottery advertising, and that Children or Young People may not be featured participating in a lottery, as part of the social responsibility codes in the LCCP.

And further to this, lotteries are differentiated from other gambling products in Great Britain in that they are wholly reserved for the funding of good causes, which rely on public fundraising for the essential social services that they provide. Indeed, for most charities that have them, a lottery forms only part of a bigger fundraising programme. A lottery purchase is generally considered by players to be as much a donation as a gambling product, if not more so. **The ability to link the purpose of the charity to the need for support is intrinsic in the whole operation of a lottery.**

The HLA contends also that one of the problems of guidelines with such a broad outline as those provided for the 'significant role' understanding, presumably unforeseen by CAP and ASA, is that it provides too much room for interpretation as to what 'significant role' means. This opens the door to regulatory creep, where a person (in the case referenced above, an employee of CAP, but it doesn't need to be) or organisation reads and defines a term for themselves, then broadcasts that stance so firmly and with such authority that it is accepted as fact, as has happened here, thereby redefining the term.

Evidence based approach sadly lacking

Regrettably, though perhaps partly understandably the CAP have only referenced evidence sourced in relation to National Lottery products. This is perhaps understandable because most of the research has been directed at harms found through gambling for high gain.

Hospice Lottery players are generally not primarily motivated by prizes (and the prizes are usually quite low, certainly in the Hospice Lottery sector) but by the opportunity to support a charity in its purpose, albeit by playing a game of chance, and not by direct donation. You will find little investigative work has been undertaken to establish this, as charity lotteries are generally considered so low risk that no-one is willing to fund any definitive evidential work.

In fact much of the decision making around lottery advertising appears to be based only on the National Lottery, or commercial gambling organisations, and is not based on the Society lotteries at all. The assumptions made by CAP/ASA appear to be that lottery advertising needs to be regulated against a greedy and avaricious group of commercial gambling firms, hell bent on trying to maximise profits at all costs.

There appears to be no recognition that charity lotteries are run by non-profit organisations trying to make a difference to people that have needs that are not funded by the government, and are therefore trying to raise money by one of the oldest fundraising tools available to the industry – raffles and lotteries.

Charities that are set up to assist children and families in difficult times, and in the case of Hospices, the most difficult, are not programmed to exploit the service providers that they are set up to support. Yet we constantly see a commercial perspective applied to a non-commercial sector, and regulation that disadvantages sensible advertising for key service funding.

Response to the Consultation Question

Question 1: Do you agree with CAP and BCAP's proposed new rules to replace CAP rules 17.15 and 17.16 and BCAP rules 18.6 and 18.7?

To have an area as important as advertising of our causes and lottery operations clouded by unclear written codes and even less clear advice from the body responsible for developing and updating the code, on whether the code has been met or not, is totally unacceptable. Especially as adherence to the code forms part of the requirements for our Gambling licences.

Hospice Lotteries operate under very many different codes of conduct, and the thing that they all have in common is that operators know what is expected of them. Unfortunately a phrase like 'significant role' is unacceptable in a code of conduct, unless it has been carefully defined for the specific industry sector that it is to apply to. It is especially cynical if it is left deliberately vague so that the ASA can choose to amend its view as it sees fit.

A Children's Hospice cannot adequately express its purpose without including children and young people in its marketing. These charities are careful to separate the images from the act of lottery ticket purchase so that glamourising of this activity to other youngsters does not occur. We have sections in numerous codes of practice, including the Gambling Commission's LCCP which make the social responsibility areas very clear.

So, whilst the HLA supports any review of the code which gives an opportunity to present its position on the application of regulatory safeguards, we cannot agree with the proposed changes in their entirety, though we do agree with some of the change in direction.

The HLA makes the following comments on the wording of each clause.

- 17.15 *[Marketing communications] for lotteries must not feature anyone who is, or seems to be, under 25 years old (under-25s) participating in gambling.*

This clause we agree with. It should not be necessary to present a need for support or an ask to join a charity lottery by using images of young people gambling. The picture should be about the service provided and the good that the funding provides.

- 17.16 *[Marketing communications] for lotteries which include any reference to scratch cards or online instant-win lottery products must not feature under-25s in a significant role. Other [marketing communications] for lotteries must not feature under-25s in a significant role unless either:*

This clause we do not agree with. The HLA cannot endorse any code that does not define the rules under which compliance can be determined by the organisation which is advertising. In our view it is incumbent on CAP/ASA to define the term significant role, specifically in relation to charity lotteries, and to provide a different code for the National Lottery if necessary, so that compliant Hospice Lotteries know what is acceptable and what is not.

In regard to scratch cards specifically, many Hospices sell them and, again the drivers for purchase by customers are different to that for the National Lottery. We would expect that CAP/ASA would fully inform themselves of the differences before rolling Charity Scratch cards in with the commercial approach and life changing amounts offered by the National Lottery.

- 17.16.1 *the under-25s are featured solely to depict the good causes supported by the lottery and there is no explicit encouragement to purchase a lottery product; or*

There cannot be an advertisement that does not ask the audience to avail themselves of the product offered and this is no different in charity fundraising. If you are saying that the image cannot ask, but the vehicle – leaflet, poster, TV ad etc. – may encourage a purchase, then the **HLA will agree with this clause.**

- 17.16.2 *the lottery primarily benefits under-25s (including in a family setting) and the under-25s featured are representative of the primary beneficiaries of the lottery.*

This clause we do not agree with. Once again CAP/ASA are trying to over regulate with an undefined reference. What does primarily mean? And is ‘primarily’ even an important

point. Is a child a primary service user of an adult Hospice Lottery? Hospices provide vital bereavement care for children and families left behind when an adult patient dies. Should the charity be able to advertise the need for support for that vital service? Clearly it should.

If the clause were to be rephrased along the lines of *'the cause promoting the lottery provides services to under-25s and the under-25s featured are shown in a setting (including in a family setting) that is representative of the services provided'* then the HLA could support it. In its proposed form it is not appropriate, as it leaves too much to interpretation.

CAP and BCAP are committed to regulation which is transparent, accountable, proportionate, consistent and targeted where action is needed.

As indicated in previous comments in this response, the HLA considers that neither the current or proposed codes are transparent or accountable. We have seen in the case that precipitated this consultation that the provisions in place now are not proportionate and need to be considered with a different perspective on charities and the way in which they operate.

Conclusion

Whilst we are very grateful that CAP/ASA are engaging with the Lottery industry to find solutions that will allow the charity sector to be able to advertise their lottery fundraising with confidence, we urge you to review, and either properly define or eliminate completely the 'significant role' clause. In its current form it is not useful nor does it provide confidence to our sector that we are operating in a compliant fashion.

Additionally

We were asked to consider other clauses and to see if there were any other areas for concern for the HLA, or the Lotteries Industry generally when this consultation was announced.

We are concerned that clause 17.13 *Marketing communications for lotteries must not be likely to be of particular appeal to children or young persons, especially by reflecting or being associated with youth culture* may prove problematical for many youth charities. Children's Hospices often have scout groups or social activities associated with their care programs and showing images of children engaged in such activities as a representative activity may breach this clause, whilst meeting the proposed code changes.

This would be even more problematical if the lottery promoter were, for example, a junior sports club, or perhaps a charity engaged in inner city youth programs etc. We will leave these concerns to our colleagues at the charities running lotteries, but raise our concerns from a Hospice perspective that this code needs consideration, to allow our charities to publicise and seek funds for the areas of their work where youth culture benefits their service users.

Many thanks for the opportunity to respond to this consultation

David Griffiths
Chair – Hospice Lotteries Association.
23 January 2020

Consultation on featuring children and young people in lottery ads

Response from the Institute of Fundraising

January 2020

Question 1: Do you agree with CAP and BCAP's proposed new rules to replace CAP rules 17.15 and 17.16 and BCAP rules 18.6 and 18.7? Please set out your arguments for supporting or disagreeing with the proposals.

IoF response:

We welcome the opportunity to respond to this consultation and are glad to see the proposals put forward for the new CAP and BCAP rules.

We do agree and support the proposal. Across our membership, charities and fundraisers use lotteries to engage supporters with their causes and raise vital money that support individuals and communities. We think it is right and appropriate for the beneficiaries of these charities to be able to form part of marketing communications for lotteries. This makes it clear and obvious for potential lottery players to see who will be benefitting from the proceeds of the lottery and properly represents the specific cause and work of the charity.

The only question we have is whether the line of 'no explicit encouragement to purchase a lottery product' will lead to confusion over wording and promotion. As we read it, there can be a general marketing communication including under-25s who are beneficiaries, but on that communication the charity couldn't specifically promote a sign up to a charity lottery? If this is the case, it would make it tricky to build it in to fundraising communications as all the research shows that the 'ask' is a key component of successful fundraising. We would welcome clarification on what would be deemed acceptable in terms of wording and content on a lottery advert so that charities are able to encourage sign ups (which is the whole point of lottery marketing communications), but in an appropriate and fair way.

We would be happy to work with the ASA to produce any additional information, examples, or guidance to help charities understand the new rule and ensure that their fundraising is compliant.

For further contact, please get in touch with policy@institute-of-fundraising.org.uk

CAP CONSULTATION ON FEATURING CHILDREN IN LOTTERY ADVERTISING

RESPONSE FROM POSTCODE LOTTERY LIMITED

BACKGROUND

Postcode Lottery Limited t/a People's Postcode Lottery (PPL) are an External Lottery Manager, managing multiple society lotteries on behalf of different charities and good causes. Each month, for a £10 subscription, players are entered into 20 draws, each on behalf of a different promoting society, who receive 32% of the subscription price for each relevant draw.

CONSULTATION QUESTION

The question asked in the consultation is "Do you agree with CAP and BCAP's proposed new rules to replace CAP rules 17.15 and 17.16 and BCAP rules 18.6 and 18.7? Please set out your arguments for supporting or disagreeing with the proposals." The proposed new CAP rules 17.15 and 17.16 are set out below.

- 17.15** Marketing communications for lotteries must not feature anyone who is, or seems to be, under 25 years old (under-25s) participating in gambling.
- 17.16** Marketing communications for lotteries which include any reference to scratch cards or online instant-win lottery products must not feature under 25s in a significant role. Other marketing communications for lotteries must not feature under-25s in a significant role unless either:
- 17.16.1** the under-25s are featured solely to depict the good causes supported by the lottery and there is not explicit encouragement to purchase a lottery product; or
 - 17.16.2** the lottery primarily benefits under 25s (including in a family setting) and the under-25s featured are representative of the primary beneficiaries of the lottery.

PPL are content with the revision to rule 17.15.

In respect of rule 17.16, in the interests of greater clarity and certainty, although the consultation mentioned some guidance around the meaning of "a significant role" in the context of alcohol advertising, we would suggest it may be helpful to provide a definition of "a significant role".

Sydenham site

51-59 Lawrie Park Road, Sydenham, London SE26 6DZ

Telephone **020 8768 4500**

Email info@stchristophers.org.uk

stchristophers.org.uk

   [stchrishospice](https://www.stchrishospice.org.uk)

About your Hospice

At St Christopher's Hospice our vision is of a world in which all dying people and those close to them have access to the care and support they need, when and wherever they need it.

In order to make this vision a reality we have developed five priorities which give direction to all that we do. These are:

- Driving innovation and new models of care
- Empowering the public around death, dying and loss
- Extending our reach
- Ensuring our long term sustainability
- Maintaining and improving the quality of care provided by us and others

We were founded in 1967 by Dame Cicely Saunders and, over 50 years later, her words still remain at the heart of everything we do: "You matter because you are you and you matter until the last moment of your life."

Each person is unique and we tailor our care to meet social, emotional and spiritual needs, as well as manage physical symptoms. Every year we provide care and support to over 6,500 people across south east London, both at home and in the hospice.

We passionately believe that everyone should have access to the best care at the end of their lives and have an extensive education programme, working with people across the world, to improve and develop hospice care.

Statement

We strongly support the submission made by the HLA on behalf of all members of our Association. We would also like to endorse the statement made by the HLA that supporters of lottery products for Hospices are not, as a genuine rule, motivated by the opportunity to win a big prize.

In fact our first prize is £1,500 with a bumper first prize in December of £5,000. Lottery players, of which there are 5,000 in our lottery, are attracted by the opportunity to support our service provision. Attempts to justify strict rules though evidence related to gambling harms caused by commercial gambling organisations or the massive jackpots offered by the National Lottery are not appropriate to hospice lotteries like ours.

Consultation question

Proposed rule

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St Christopher's Hospice would like to thank CAP for engaging with our association and looking to provide a better informed and more user friendly code of practice for society lotteries.

St Christopher's Hospice
21 January 2020

About the Hospice

St David's Hospice Care is committed to providing bespoke, individual 'free' care for all our patients and their families. We work alongside patients and hope to support them at the most difficult times of their lives. We aim to ensure that patients have choice about the care they receive whilst maintaining dignity throughout their journey is paramount to us. We supply a whole host of 'free' services to ensure the best possible care is available, our website explains more at www.stdavidshospicecare.org

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St David's Hospice Care
22/01/2020



About The Donna Louise Hospice for Children & Young People

The Donna Louise Hospice for Children & Young People provides a lifeline to hundreds of families across Staffordshire and South Cheshire who are facing every parent's worst nightmare; the heart-breaking knowledge that they will almost certainly outlive their child. As Staffordshire's only hospice for children and young people, we provide specialist care and support services for under 18's with life-shortening conditions, due to illness or injury, from birth until they no longer need us. We rely on the support of our local community for more than 90% of our funding, therefore our Lottery initiative is a hugely valuable and absolutely vital source of income and awareness. Our families are at the heart of our brand and, as such, it is crucial that we are able to reflect this in lottery promotional material through imagery of the children who benefit from the proceeds of the lottery.

Statement

We strongly support the submission made by the HLA on behalf of all members of our Association. We would also like to endorse the statement made by the HLA that supporters of lottery products for Hospices are not, as a genuine rule, motivated by the opportunity to win a big prize.

In fact our first prize is £25,000. Lottery players, of which there are 6,000 in our lottery, are attracted by the opportunity to support our service provision. Attempts to justify strict rules though evidence related to gambling harms caused by commercial gambling organisations or the massive jackpots offered by the National Lottery are not appropriate to hospice lotteries like ours.

Consultation question

Proposed rule

17.15 *[Marketing communications] for lotteries must not feature anyone who is, or seems to be, under 25 years old (under-25s) participating in gambling.*

17.16 *[Marketing communications] for lotteries which include any reference to scratchcards or online instant-win lottery products must not feature under-25s in a significant role.*

Other [marketing communications] for lotteries must not feature under-25s in a significant role unless either:

17.16.1 *the under-25s are featured solely to depict the good causes supported by the lottery and there is no explicit encouragement to purchase a lottery product; or*

17.16.2 *the lottery primarily benefits under-25s (including in a family setting) and the under-25s featured are representative of the primary beneficiaries of the lottery.*

Question 1:

Do you agree with CAP and BCAP's proposed new rules to replace CAP rules 17.15 and 17.16 and BCAP rules 18.6 and 18.7?

We are content with the revision to rule 17.15.

We appreciate rule 17.16.2 - as mentioned in our opening statement about The Donna Louise, our children, young people, and their families, benefit hugely from the funds raised by our lottery. It is a major source of income for the hospice and allows us to continue offering them vital support. It is therefore essential that we are able to continue using our children's imagery on lottery promotional materials as representatives of the lottery's primary beneficiaries.

The Donna Louise Hospice for Children & Young People would like to thank CAP for engaging with our association and looking to provide a better informed and more user friendly code of practice for society lotteries.

The Donna Louise Hospice for Children & Young People
22nd January 2020

**Hospice Lottery Partnership written response to the ASA Consultation
on Codes of Advertising Practice Section 17**

About us

The Hospice Lottery Partnership was formed in 1997 to raise funds via a weekly lottery draw and seasonal Super draws.

The money raised goes to a group of five hospices caring for over 11,000 patients and their families across Bedfordshire, Berkshire, Buckinghamshire, Hertfordshire, Middlesex and Oxfordshire. Their valuable services are provided at no cost to patients or their families, and they only receive a small amount of government funding which means that they have to raise most of the money through support from the local community. The money raised by The Hospice Lottery Partnership therefore provides a vital source of income.

Our hospice partners are:

- Florence Nightingale Hospice Charity
- Michael Sobell Hospice Charity
- Rennie Grove Hospice Care
- The Hospice of St Francis
- South Bucks Hospice

Two of our partner hospices offer specialist palliative care for children up to 18 as part of their overall service provision.

HLP is a not-for-profit organisation with all profits going directly to our hospice partners. We are one of the top 5 largest hospice lotteries in the UK and have over 43,000 entries in the weekly draw each week.

We are licensed by The Gambling Commission as well as being a member of The Hospice Lotteries Association and the Lotteries Council.

Statement

We strongly support the submission made by the HLA on behalf of all members of our Association. We would also like to endorse the statement made by the HLA that supporters of lottery products for Hospices are not, as a genuine rule, motivated by the opportunity to win a big prize.

In fact our first prize is £1000. Lottery players, of which there are 43,000 in our lottery, are attracted by the opportunity to support our service provision. Attempts to justify strict rules though evidence related to gambling harms caused by commercial gambling organisations or the massive jackpots offered by the National Lottery are not appropriate to hospice lotteries like ours.

Consultation question

Proposed rule

17.15 *[Marketing communications] for lotteries must not feature anyone who is, or seems to be, under 25 years old (under-25s) participating in gambling.*

17.16 *[Marketing communications] for lotteries which include any reference to scratchcards or online instant-win lottery products must not feature under-25s in a significant role.*

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17.16.1 *the under-25s are featured solely to depict the good causes supported by the lottery and there is no explicit encouragement to purchase a lottery product; or*

17.16.2 *the lottery primarily benefits under-25s (including in a family setting) and the under-25s featured are representative of the primary beneficiaries of the lottery.*

Question 1:

Do you agree with CAP and BCAP's proposed new rules to replace CAP rules 17.15 and 17.16 and BCAP rules 18.6 and 18.7?

We are content with the revision to rule 17.15.

There are a number of issues with the proposed changes to rule 17.16.

1. There are references to the phrase “in a significant role”, which is not defined anywhere but appears to be a set of guidelines adapted for the Codes of Advertising Practice applied to alcohol advertising. Leaving this phrase undefined means that it open to interpretation in different ways by advertisers and regulators. The HLA submission details how different interpretations can be placed on it even by different individuals within the regulator. The use of this term rebuts the statement that “CAP strives to ensure that its rule-making is transparent, accountable, proportionate, consistent and targeted”. The use of undefined and ambiguous phrases such as “significant role” does not comply with this aim, especially as what clarification there is does not specifically relate to lotteries.
2. 17.16.1 is poorly worded. The proposed Codes of Advertising Practice appear here to be preventing advertising the cause and support for the cause. Hospices like those we fund frequently use photos of patients in various supported settings to ask supporters to provide income for the charity. What is getting forgotten is the fact that lotteries are a fundraising vehicle – as well as a gambling product, and in the case of Hospice lotteries more the former than the latter. And at some point supporters will need to be asked to support.
3. 17.16.2 appears to again put interpretation ahead of definition. Primacy of purpose is not the only reason that imagery of young people is important for our Hospices. One of the biggest issues for a dying patient is the vital support for the family and often children that they leave behind. These are critical issues that need to be presented to potential supporters and lottery players. The code should – at the minimum – be enabling images involving children’s services, either as part of an overall Hospice service, or as a specialist Children’s Hospice to be shown in order to encourage public support.

The Hospice Lottery Partnership would like to thank CAP for engaging with our association and looking to provide a better informed and more user friendly code of practice for society lotteries.

David Griffiths
Chief Executive
The Hospice Lottery Partnership Inc
22 January 2020



The Hospice *Lottery*

The Hospice Lottery Partnership Limited supports:

Florence Nightingale Hospice Charity

Rennie Grove Hospice Care

Michael Sobell Hospice Charity

South Bucks Hospice

The Hospice of St Francis

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Registered in England No. 3458520

CAP/BCAP consultation on a new rule to permit children to play a significant role in lottery advertising under limited circumstances



About the Lotteries Council and the charity lottery sector

The Lotteries Council is the membership body which brings together over 400 members who either run charity lotteries or provide services to support the running of charity lotteries.

The Charity Lottery sector raised over £322 million for good causes in the year to March 2019 according to the latest Gambling Commission statistics.

The latest Gambling Commission figures for the percentage return to good causes show that the Charity Lottery sector returned 45.1% to good causes in the year to March 2019.

Consultation question

Proposed rule

17.15 *[Marketing communications] for lotteries must not feature anyone who is, or seems to be, under 25 years old (under-25s) participating in gambling.*

17.16 *[Marketing communications] for lotteries which include any reference to scratchcards or online instant-win lottery products must not feature under-25s in a significant role.*

Other [marketing communications] for lotteries must not feature under-25s in a significant role unless either:

17.16.1 *the under-25s are featured solely to depict the good causes supported by the lottery and there is no explicit encouragement to purchase a lottery product; or*

17.16.2 *the lottery primarily benefits under-25s (including in a family setting) and the under-25s featured are representative of the primary beneficiaries of the lottery.*

Question 1:

Do you agree with CAP and BCAP's proposed new rules to replace CAP rules 17.15 and 17.16 and BCAP rules 18.6 and 18.7? Please set out your arguments for supporting or disagreeing with the proposals.

The Lotteries Council is content with the revision to rule 17.15.

However, there are a number of issues with the proposed changes to rule 17.16.

1. There are two references to the phrase "in a significant role", which is not defined anywhere. Leaving it undefined leaves it open to interpretation in different ways by advertisers and regulators. The existing rules use this phrase also, and evidence shows that different interpretations are placed on it even by different individuals within the regulator. You state that "BCAP strives to ensure that its rule-making is transparent, accountable,

proportionate, consistent and targeted”. The use of undefined and ambiguous phrases such as “significant role” does not comply with this aim.

2. The purpose of an advertisement is to advertise. Many of our members, especially those that are hospices, tend to offer low prizes and therefore advertise their good causes to seek new participants in their lotteries. Those members whose primary beneficiaries are under-25 will, under the proposed new sub-rule 17.16.1, not be able to advertise their lotteries and this, therefore, does not change the existing regime as these new proposals are intended to do.
3. The proposed new rules seek to distinguish scratchcards and other online games from other lotteries. As evidence for making this distinction, CAP/BCAP refer to the Gambling Commission report, “Young People & Gambling 2018”. That report refers only to National Lottery scratchcards where the jackpots on offer are considerable – currently up to £2million. There is no reference in that report to charity lottery scratchcards where the prizes on offer are considerably lower – typically around £1,000. Any distinction between scratchcards and other forms of lottery should be on the basis of evidence that one causes, or has the potential to cause, more harm than the other. There is no such evidence and, therefore, no such distinction should be made.

Additionally, The Lotteries Council supports the detailed submission made by the Hospice Lotteries Association.

The Lotteries Council
22 January 2020

TLC Lottery is a £1 weekly lottery owned by Acorns Children's Hospice, Birmingham St Mary's Hospice and Focus Birmingham. We have in the past been given advice by members of the CAP code team causing a re-print of our promotional leaflets incurring unnecessary cost to us. I have attached the pictures concerned from which we were advised to be in breach of sections 17.15 and 17.16 of the code. Neither of the images were on the front of the leaflet promoting the lottery but were shown inside under the section explaining who are charities are and who you would be helping by playing our lottery.

Statement

We strongly support the submission made by the HLA on behalf of all members of our Association. We would also like to endorse the statement made by the HLA that supporters of lottery products for Hospices are not, as a genuine rule, motivated by the opportunity to win a big prize.

In fact our first prize is £1,000. Lottery players, of which there are 11,300 in our lottery, are attracted by the opportunity to support our service provision. Attempts to justify strict rules though evidence related to gambling harms caused by commercial gambling organisations or the massive jackpots offered by the National Lottery are not appropriate to hospice lotteries like ours.

Consultation question

Proposed rule

17.15 *[Marketing communications] for lotteries must not feature anyone who is, or seems to be, under 25 years old (under-25s) participating in gambling.*

17.16 *[Marketing communications] for lotteries which include any reference to scratchcards or online instant-win lottery products must not feature under-25s in a significant role.*

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17.16.1 *the under-25s are featured solely to depict the good causes supported by the lottery and there is no explicit encouragement to purchase a lottery product; or*

17.16.2 *the lottery primarily benefits under-25s (including in a family setting) and the under-25s featured are representative of the primary beneficiaries of the lottery.*

Question 1:

Do you agree with CAP and BCAP's proposed new rules to replace CAP rules 17.15 and 17.16 and BCAP rules 18.6 and 18.7?

We are content with the revision to rule 17.15.

There are a number of issues with the proposed changes to rule 17.16.

1. There are references to the phrase “in a significant role”, which is not defined anywhere but appears to be a set of guidelines adapted for the Codes of Advertising Practice applied to alcohol advertising. Leaving this phrase undefined means that it open to interpretation in different ways by advertisers and regulators. The HLA submission details how different interpretations can be placed on it even by different individuals within the regulator. The use of this term rebuts the statement that “CAP strives to ensure that its rule-making is transparent, accountable, proportionate, consistent and targeted”. The use of undefined and ambiguous phrases such as “significant role” does not comply with this aim, especially as what clarification there is does not specifically relate to lotteries.
2. 17.16.1 is poorly worded. The proposed Codes of Advertising Practice appear here to be preventing advertising the cause and support for the cause. Hospices like ours frequently use photos of patients in various supported settings to ask supporters to provide income for the charity. What is getting forgotten is the fact that lotteries are a fundraising vehicle – as well as a gambling product, and in the case of Hospice lotteries more the former than the latter. And at some point supporters will need to be asked to support.
3. 17.16.2 appears to again put interpretation ahead of definition. Primacy of purpose is not the only reason that imagery of young people is important for our Hospice. One of the biggest issues for a dying patient is the vital support for the family and often children that they leave behind. These are critical issues that need to be presented to potential supporters and lottery players

TLC Lottery would like to thank CAP for engaging with our association and looking to provide a better informed and more user friendly code of practice for society lotteries.

TLC Lotteries Ltd
22nd January 2020



About Treetops Hospice Care

Treetops Hospice Care is an adult hospice which provides nursing care and emotional support for anyone affected by a life-limiting illness or bereavement (emotional support for adults and Children). Treetops support people with illnesses such as cancer, motor neurone disease and multiple sclerosis, as well as their carers and families. All services are provided free of charge in Derbyshire & Nottinghamshire.

Statement

We strongly support the submission made by the HLA on behalf of all members of our Association. We would also like to endorse the statement made by the HLA that supporters of lottery products for Hospices are not, as a genuine rule, motivated by the opportunity to win a big prize.

In fact, our first prize is £1000. Lottery players, of which there are 13 000 in our lottery, are attracted by the opportunity to support our service provision. Attempts to justify strict rules though evidence related to gambling harms caused by commercial gambling organisations or the massive jackpots offered by the National Lottery are not appropriate to hospice lotteries like ours.

Consultation question

Proposed rule

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ensure that its rule-making is transparent, accountable, proportionate, consistent and targeted". The use of undefined and ambiguous phrases such as "significant role" does not comply with this aim, especially as what clarification there is does not specifically relate to lotteries.

2. 17.16.1 is poorly worded. The proposed Codes of Advertising Practice appear here to be preventing advertising the cause and support for the cause. Hospices like ours frequently use photos of patients in various supported settings to ask supporters to provide income for the charity. What is getting forgotten is the fact that lotteries are a fundraising vehicle – as well as a gambling product, and in the case of Hospice lotteries more the former than the latter. And at some point supporters will need to be asked to support.
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Treetops Hospice Care would like to thank CAP for engaging with our association and looking to provide a better informed and more user-friendly code of practice for society lotteries.

Treetops Hospice Care
23rd January 2020